

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

SHAE COBB WILLIAMS, *et al.*,

Plaintiffs,

*versus*RADIO ONE OF TEXAS L.P., *et al.*,

Defendants.

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CIVIL ACTION H-04-1847

Opinion on Relief from Judgment

Shae Cobb Williams has filed a motion for relief from the final judgment. Because it is untimely, it will be denied.

Williams filed this lawsuit on May 4, 2004. On September 3, 2004, one day before the deadline, Williams moved for an extension to serve defendant Jon Smith. The court denied the motion on September 14, but failed to dismiss Smith from the case. On March 24, 2005, this court entered a take nothing judgment that included all named defendants, including Smith.

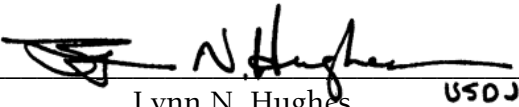
Thirty-three days later, Williams appealed the judgment and several orders. Neither the notice nor the amended notice mentioned Smith. Because it was late, the appeal was dismissed for lack of jurisdiction. Williams now returns to this court, arguing that because the judgment precludes him from suing Smith again, it cannot be merely amended and should be vacated.

The time for Williams to complain about Smith's adjudication on the merits has passed. He had eight months to move to dismiss Smith before the judgment was entered. He did not. He then had ten days to move to amend the judgment. He did not. He had thirty days to file a notice of appeal. He did not.

This attempt to revive the suit, too, is late. A motion for relief from the final judgment must be filed within the time to file an appeal. *Meadows v. Cohen*, 409 F.2d 750 (5th Cir. 1969); *McDowell v. Celebreeze*, 310 F.2d 43 (5th Cir. 1962).

William's motion for relief will be denied.

Signed November 25, 2005, at Houston, Texas.



Lynn N. Hughes
United States District Judge

USDC